



February 17, 2015

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## HOUSE BILL No. 1561

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DIGEST OF HB 1561 (Updated February 17, 2015 1:04 pm - DI 87)

**Citations Affected:** IC 36-4.

**Synopsis:** Annexation. Provides the following for annexations for which an annexation ordinance is adopted after June 30, 2015: (1) Provides that the annexation fiscal plan is similar to plans required for local government mergers and reorganizations. (2) Prohibits the fiscal plan from being amended after a remonstrance petition is filed, unless the amendment is consented to by remonstrators. (3) Requires a municipality to conduct an outreach program to inform citizens about a proposed annexation. (4) Allows remonstrators who prevail at a remonstrance hearing to recover expenses incurred in filing the remonstrance, including appeal costs and reasonable attorney's fees, in an amount not to exceed \$40,000. (5) Provides the circumstances under which a public highway or rights of way of a public highway that is annexed may be considered contiguous and may be used for further annexations. (6) Allows a municipality to exempt property from property tax liability for municipal purposes if the property is used for agricultural purposes (instead of classified as agricultural for zoning purposes). (7) Allows a municipality to annex noncontiguous territory occupied by a commercial or industrial economic development project. (8) Provides that a petition for remonstrance or to request annexation may be signed by at least 51% of the owners of land in the territory or 60% of the total assessed value of the land for property tax purposes. (9) Requires a municipality to give notice of an annexation hearing to a landowner whose agricultural property is exempted from property taxes for municipal purposes. Removes an annexation procedure applicable only to a municipality in St. Joseph County. Provides common names for the different annexation procedures.

**Effective:** July 1, 2015.

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### Negele, Mahan, Truitt

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January 20, 2015, read first time and referred to Committee on Government and Regulatory Reform.  
February 17, 2015, amended, reported — Do Pass.

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February 17, 2015

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1561

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-4-3-1.2 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]: **Sec. 1.2. The annexation procedures may be referred to as**  
4 **follows:**

5 (1) **An annexation under section 5 of this chapter may be**  
6 **referred to as a landowner initiated annexation.**  
7 (2) **An annexation under section 5.1 of this chapter may be**  
8 **referred to as a unanimous landowner initiated annexation.**  
9 (3) **An annexation to which section 5 or 5.1 of this chapter**  
10 **does not apply may be referred to as a municipality initiated**  
11 **annexation.**

12 SECTION 2. IC 36-4-3-1.5 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.5. **(a)** For purposes  
14 of this chapter, territory sought to be annexed may be considered

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"contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous, a strip of land:

(1) less than one hundred fifty (150) feet wide which connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory; or

(2) containing a public highway or rights of way of a public highway which connects the annexing municipality to noncontiguous territory is not considered a part of the boundaries of either the municipality or the territory unless the requirements of subsections (b)(1) or (b)(2) are met.

(b) Any public highway or rights of way of a public highway that is annexed by a municipality is not considered a part of the municipality for purposes of annexing additional territory unless one (1) of the following requirements is met:

(1) The municipality obtains the written consent of all owners of any property:

(A) adjoining the entire length of the public highway and rights of way of the public highway; and

(B) located outside the corporate boundaries of the annexing municipality;

to annex additional territory. A waiver of the right of remonstrance executed by a property owner or a successor in title of the property owner for sewer services or water services does not constitute written consent to annex additional territory.

(2) The entire length of the public highway or rights of way of the public highway is:

(A) a part of the boundaries of the municipality; and

(B) adjacent to or contiguous to parcels of property that are within the boundaries of the municipality.

(3) As part of one (1) annexation ordinance, the municipality annexes:

(A) the public highway and rights of way of the public highway; and

(B) all parcels of property that are adjacent to or contiguous to the public highway or rights of way of the public highway.

An annexation ordinance that uses a public highway or rights of way of a public highway to annex additional territory without satisfying one (1) of the requirements of this subsection is void.



SECTION 3. IC 36-4-3-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.7. (a) This section applies only to an annexation ordinance adopted after June 30, 2015. This section does not apply to an annexation under section 5.1 of this chapter.

(b) Not earlier than six (6) months before a municipality introduces an annexation ordinance, the municipality shall conduct an outreach program to inform citizens regarding the proposed annexation. The outreach program must conduct at least six (6) public information meetings regarding the proposed annexation. The public information meetings must provide citizens with the following information:

(1) Maps showing the proposed boundaries of the annexation territory.

(2) Proposed plans for extension of capital and noncapital services in the annexation territory, including proposed dates of extension.

(3) Expected fiscal impact on taxpayers in the annexation territory, including any increase in taxes and fees.

(4) Information regarding rezoning of landowners' property as agricultural for purposes of receiving the tax exemption as set forth in section 4.1 of this chapter.

(c) The municipality shall provide notice of the dates, times, and locations of the outreach program meetings. The municipality shall publish the notice under IC 5-3-1 of the meetings, including the date, time, and location of the meetings, except that notice must be published not later than thirty (30) days before the date of each meeting. The municipality shall also send notice to each owner of land within the annexation territory not later than thirty (30) days before the date of the first meeting of the outreach program. The notice to landowners shall be sent by mail or certified mail and include the following information:

(1) The notice shall inform the landowner that the municipality is proposing to annex territory that includes the landowner's property.

(2) The municipality is conducting an outreach program for the purpose of providing information to landowners and the public regarding the proposed annexation.

(3) The date, time, and location of the meetings to be conducted under the outreach program.

(d) The notice shall be sent to the address of the landowner as listed on the tax duplicate. If the municipality provides evidence



1 that the notice was sent by certified mail, return receipt requested,  
 2 and in accordance with this section, it is not necessary that the  
 3 landowner accept receipt of the notice. If a remonstrance is filed  
 4 under section 11 of this chapter, the municipality shall file with the  
 5 court proof that notices were sent to landowners under this section  
 6 and proof of publication.

7 (e) The notice required under this section is in addition to any  
 8 notice required under sections 2.1 and 2.2 of this chapter.

9 SECTION 4. IC 36-4-3-2.2, AS AMENDED BY P.L.69-2010,  
 10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2015]: Sec. 2.2. (a) This section does not apply to an  
 12 annexation under section 4(a)(2), 4(a)(3), 4(b), ~~or 4(h) or 4.1~~ of this  
 13 chapter or an annexation described in section 5.1 of this chapter.

14 (b) Before a municipality may annex territory, the municipality shall  
 15 provide written notice of the hearing required under section 2.1 of this  
 16 chapter. Except as provided in subsection (f), the notice must be sent  
 17 by certified mail at least sixty (60) days before the date of the hearing  
 18 to each owner of real property, as shown on the county auditor's current  
 19 tax list, whose real property is located within the territory proposed to  
 20 be annexed.

21 (c) For purposes of an annexation of territory described in section  
 22 2.5 of this chapter, if the hearing required under section 2.1 of this  
 23 chapter is conducted after June 30, 2010, the notice required by this  
 24 section must also be sent to each owner of real property, as shown on  
 25 the county auditor's current tax list, whose real property is adjacent to  
 26 contiguous areas of rights-of-way of the public highway that are only  
 27 included in the annexation of territory by operation of IC 36-4-3-2.5 on  
 28 the side of the public highway that is not part of the annexed territory.

29 (d) The notice required by this section must include the following:

- 30 (1) A legal description of the real property proposed to be  
 31 annexed.
- 32 (2) The date, time, location, and subject of the hearing.
- 33 (3) A map showing the current municipal boundaries and the  
 34 proposed municipal boundaries.
- 35 (4) Current zoning classifications for the area proposed to be  
 36 annexed and any proposed zoning changes for the area proposed  
 37 to be annexed.
- 38 (5) A detailed summary of the fiscal plan, **if applicable**, described  
 39 in section 13 of this chapter.
- 40 (6) The location where the public may inspect and copy the fiscal  
 41 plan, **if applicable**.
- 42 (7) A statement that the municipality will provide a copy of the



fiscal plan, **if applicable**, after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.

(8) The name and telephone number of a representative of the municipality who may be contacted for further information.

(e) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

(f) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by certified mail not later than twenty (20) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

SECTION 5. IC 36-4-3-4.1, AS AMENDED BY P.L.243-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.1. (a) A municipality may annex territory under this section only if the territory is contiguous to the municipality.

(b) **This subsection applies only to an annexation ordinance adopted before July 1, 2015.** Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that are classified for zoning purposes as agricultural and remain exempt from the property tax liability while the property's zoning classification remains agricultural.

(c) **This subsection applies only to an annexation ordinance adopted after June 30, 2015. Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all parts of the annexed territory that are used for agricultural purposes and remains exempt from the property tax liability while the property's use remains agricultural.**

~~(c)~~ (d) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

~~(d)~~ (e) Territory annexed under this section may not be considered a part of the municipality for purposes of annexing additional territory under section 3 or 4 of this chapter. However, territory annexed under this section shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter.

SECTION 6. IC 36-4-3-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.2. (a) **As used in this section, "economic**



development project" means any project that:

(1) a municipality determines will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the municipality; or

(C) retain or expand a significant business enterprise within the municipality; and

(2) involves expenditures by the annexing municipality for any of the following:

(A) Land acquisition, interests in land, site improvements, infrastructure improvements, buildings, or structures.

(B) Rehabilitation, renovation, and enlargement of buildings and structures.

(C) Machinery, equipment, furnishings, or facilities.

(D) Substance removal or remedial action.

(b) A municipality may annex noncontiguous territory that is entirely occupied by an economic development project, only if all of the following requirements are satisfied:

(1) The economic development project is developed by the annexing municipality.

(2) The economic development project:

(A) only involves commercial or industrial use of land; and

(B) does not involve any residential use of land.

(3) The economic development project has its entire area not more than one (1) mile from the annexing municipality's boundary.

(4) The economic development project is annexed under section 5.1 of this chapter.

(c) The annexation territory may not be considered a part of the municipality for purposes of annexing additional territory. The annexation ordinance and fiscal plan must include the basis for the municipality's determination that the project is an economic development project.

(d) If the economic development project that occupies territory that is annexed in accordance with this section is not completed within three (3) years after the date the annexation is effective, the annexation territory reverts to the county. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the county.

SECTION 7. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2015]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of ~~seventy-five~~ **sixty** percent ~~(75%)~~ **(60%)** of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(c) ~~Except as provided in section 5-1 of this chapter,~~ If the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;

(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance



to at least one (1) municipal legislative body district.

SECTION 8. IC 36-4-3-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) This section applies to an annexation in which owners of land located outside but contiguous to a municipality file a petition with the legislative body of the municipality:

(1) requesting an ordinance annexing the area described in the petition; and

(2) signed by one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(d) The municipality may:

(1) adopt an annexation ordinance annexing the territory; and

(2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality.

**(h) If a landowner withdraws the landowner's signature, the following occurs:**

**(1) Except as provided in subdivision (2),** the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter



1 apply to the petition.

2 **(2) If the petition is for annexation of an economic**  
 3 **development project under section 4.2 of this chapter, the**  
 4 **annexation ordinance is voided.**

5 ~~(h)~~ **(i)** If the municipality does not adopt an annexation ordinance  
 6 within sixty (60) days after the landowners file the petition with the  
 7 legislative body, the landowners may file a duplicate petition with the  
 8 circuit or superior court of a county in which the territory is located.  
 9 The court shall determine whether the annexation shall take place as  
 10 set forth in section 5 of this chapter.

11 ~~(i)~~ **(j)** A remonstrance under section 11 of this chapter may not be  
 12 filed. However, an appeal under section 15.5 of this chapter may be  
 13 filed.

14 ~~(j)~~ **(k)** In the absence of an appeal under section 15.5 of this chapter,  
 15 an annexation ordinance adopted under this section takes effect not less  
 16 than thirty (30) days after the adoption of the ordinance and upon the  
 17 filing and recording of the ordinance under section 22 of this chapter.

18 SECTION 9. IC 36-4-3-11, AS AMENDED BY P.L.111-2005,  
 19 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2015]: Sec. 11. (a) Except as provided in section ~~5.1(i)~~ **5.1(j)**  
 21 of this chapter and subsections (d) and (e), whenever territory is  
 22 annexed by a municipality under this chapter, the annexation may be  
 23 appealed by filing with the circuit or superior court of a county in  
 24 which the annexed territory is located a written remonstrance signed  
 25 by:

26 (1) at least ~~sixty-five~~ **fifty-one** percent ~~(65%)~~ **(51%)** of the  
 27 owners of land in the annexed territory; or

28 (2) the owners of more than ~~seventy-five~~ **sixty** percent ~~(75%)~~  
 29 **(60%)** in assessed valuation of the land in the annexed territory.

30 The remonstrance must be filed within ninety (90) days after the  
 31 publication of the annexation ordinance under section 7 of this chapter,  
 32 must be accompanied by a copy of that ordinance, and must state the  
 33 reason why the annexation should not take place.

34 (b) On receipt of the remonstrance, the court shall determine  
 35 whether the remonstrance has the necessary signatures. In determining  
 36 the total number of landowners of the annexed territory and whether  
 37 signers of the remonstrance are landowners, the names appearing on  
 38 the tax duplicate for that territory constitute prima facie evidence of  
 39 ownership. Only one (1) person having an interest in each single  
 40 property, as evidenced by the tax duplicate, is considered a landowner  
 41 for purposes of this section.

42 (c) If the court determines that the remonstrance is sufficient, it shall



1 fix a time, within sixty (60) days of its determination, for a hearing on  
 2 the remonstrance. Notice of the proceedings, in the form of a summons,  
 3 shall be served on the annexing municipality. The municipality is the  
 4 defendant in the cause and shall appear and answer.

5 (d) If an annexation is initiated by property owners under section 5.1  
 6 of this chapter and all property owners within the area to be annexed  
 7 petition the municipality to be annexed, a remonstrance to the  
 8 annexation may not be filed under this section.

9 (e) This subsection applies if:

10 (1) The territory to be annexed consists of not more than one  
 11 hundred (100) parcels; and

12 (2) Eighty percent (80%) of the boundary of the territory proposed  
 13 to be annexed is contiguous to the municipality.

14 An annexation may be appealed by filing with the circuit or superior  
 15 court of a county in which the annexed territory is located a written  
 16 remonstrance signed by at least seventy-five percent (75%) of the  
 17 owners of land in the annexed territory as determined under subsection  
 18 (b).

19 SECTION 10. IC 36-4-3-11.1 IS ADDED TO THE INDIANA  
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2015]: **Sec. 11.1. (a) This section applies to a**  
 22 **remonstrance filed after June 30, 2015.**

23 **(b) If a court orders an annexation not to take place after a**  
 24 **hearing under section 11 of this chapter, the court shall allow the**  
 25 **persons who signed a remonstrance in accordance with section**  
 26 **11(a) of this chapter the expenses incurred in the filing and**  
 27 **litigation of the remonstrance petition, including appeal costs and**  
 28 **reasonable attorney's fees in an amount not to exceed forty**  
 29 **thousand dollars (\$40,000).**

30 SECTION 11. IC 36-4-3-13, AS AMENDED BY P.L.119-2012,  
 31 SECTION 188, IS AMENDED TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2015]: **Sec. 13. (a) Except as provided in**  
 33 **subsections (e) and (g), at the hearing under section 12 of this chapter,**  
 34 **the court shall order a proposed annexation to take place if the**  
 35 **following requirements are met:**

36 (1) The requirements of either subsection (b) or (c).

37 (2) The requirements of subsection (d).

38 **(3) The requirements of subsection (i).**

39 (b) The requirements of this subsection are met if the evidence  
 40 establishes the following:

41 (1) That the territory sought to be annexed is contiguous to the  
 42 municipality.



(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes **one (1) of** the following:

(1) That the territory sought to be annexed:

**(A)** is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality; **and**

~~(2) That the territory sought to be annexed~~ **(B)** is needed and can be used by the municipality for its development in the reasonably near future.

**(2) That the territory sought to be annexed is occupied by an economic development project that meets the requirements of section 4.2 of this chapter.**

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate



boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

**(6) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect of the proposed annexation on taxpayers in each of the political subdivisions to which the proposed annexation applies, including the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments in those political subdivisions for four (4) years after the effective date of the annexation.**

**(7) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect the proposed annexation will have on municipal finances, specifically how municipal tax revenues will be affected by the annexation for four (4) years after the effective date of the annexation.**

**(8) This subdivision applies to a fiscal plan prepared after June 30, 2015. Any estimated effects on political subdivisions in the county that are not part of the annexation and on taxpayers located in those political subdivisions for four (4) years after the effective date of the annexation.**

**(9) This subdivision applies to a fiscal plan prepared after June 30, 2015. A list of all parcels of property in the annexation territory and the following information regarding each parcel:**

**(A) The name of the owner of the parcel.**

**(B) The parcel identification number.**

**(C) The most recent assessed value of the parcel.**

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the conditions set forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed to be



annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) One (1) of the following opposes the annexation:

(i) At least ~~sixty-five~~ **fifty-one** percent (~~65%~~) (**51%**) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than ~~seventy-five~~ **sixty** percent (~~75%~~) (**60%**) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory



1 that was within the boundaries of one (1) or more municipalities. At the  
 2 hearing under section 12 of this chapter, the court shall do the  
 3 following:

4 (1) Consider evidence on the conditions listed in subdivision (2).

5 (2) Order a proposed annexation not to take place if the court  
 6 finds that all of the following conditions exist in the territory  
 7 proposed to be annexed:

8 (A) The following services are adequately furnished by a  
 9 provider other than the municipality seeking the annexation:

10 (i) Police and fire protection.

11 (ii) Street and road maintenance.

12 (B) The annexation will have a significant financial impact on  
 13 the residents or owners of land.

14 (C) One (1) of the following opposes the annexation:

15 (i) A majority of the owners of land in the territory proposed  
 16 to be annexed.

17 (ii) The owners of more than seventy-five percent (75%) in  
 18 assessed valuation of the land in the territory proposed to be  
 19 annexed.

20 Evidence of opposition may be expressed by any owner of land  
 21 in the territory proposed to be annexed.

22 (h) The most recent:

23 (1) federal decennial census;

24 (2) federal special census;

25 (3) special tabulation; or

26 (4) corrected population count;

27 shall be used as evidence of resident population density for purposes  
 28 of subsection (b)(2)(A), but this evidence may be rebutted by other  
 29 evidence of population density.

30 **(i) Proof that the municipality has complied with the outreach**  
 31 **program requirements and notice requirements of section 1.7 of**  
 32 **this chapter.**

33 **(j) A municipality that prepares a fiscal plan after June 30,**  
 34 **2015, must comply with this subsection. A municipality may not**  
 35 **amend the fiscal plan after the date that a remonstrance is filed**  
 36 **under section 11 of this chapter, unless amendment of the fiscal**  
 37 **plan is consented to by the affected individuals signing the**  
 38 **remonstrance petition.**





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1561, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 2. IC 36-4-3-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.5. **(a)** For purposes of this chapter, territory sought to be annexed may be considered "contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous, a strip of land:

- (1)** less than one hundred fifty (150) feet wide which connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory; **or**
- (2) containing a public highway or rights of way of a public highway which connects the annexing municipality to noncontiguous territory is not considered a part of the boundaries of either the municipality or the territory unless the requirements of subsections (b)(1) or (b)(2) are met.**

**(b) Any public highway or rights of way of a public highway that is annexed by a municipality is not considered a part of the municipality for purposes of annexing additional territory unless one (1) of the following requirements is met:**

- (1) The municipality obtains the written consent of all owners of any property:**

- (A) adjoining the entire length of the public highway and rights of way of the public highway; and**

- (B) located outside the corporate boundaries of the annexing municipality;**

**to annex additional territory. A waiver of the right of remonstrance executed by a property owner or a successor in title of the property owner for sewer services or water services does not constitute written consent to annex additional territory.**

- (2) The entire length of the public highway or rights of way of the public highway is:**

- (A) a part of the boundaries of the municipality; and**

- (B) adjacent to or contiguous to parcels of property that are within the boundaries of the municipality.**

- (3) As part of one (1) annexation ordinance, the municipality**



**annexes:**

- (A) the public highway and rights of way of the public highway; and**
- (B) all parcels of property that are adjacent to or contiguous to the public highway or rights of way of the public highway.**

**An annexation ordinance that uses a public highway or rights of way of a public highway to annex additional territory without satisfying one (1) of the requirements of this subsection is void."**

Page 2, between lines 19 and 20, begin a new paragraph and insert:

**"(c) The municipality shall provide notice of the dates, times, and locations of the outreach program meetings. The municipality shall publish the notice under IC 5-3-1 of the meetings, including the date, time, and location of the meetings, except that notice must be published not later than thirty (30) days before the date of each meeting. The municipality shall also send notice to each owner of land within the annexation territory not later than thirty (30) days before the date of the first meeting of the outreach program. The notice to landowners shall be sent by mail or certified mail and include the following information:**

- (1) The notice shall inform the landowner that the municipality is proposing to annex territory that includes the landowner's property.**
- (2) The municipality is conducting an outreach program for the purpose of providing information to landowners and the public regarding the proposed annexation.**
- (3) The date, time, and location of the meetings to be conducted under the outreach program.**

**(d) The notice shall be sent to the address of the landowner as listed on the tax duplicate. If the municipality provides evidence that the notice was sent by certified mail, return receipt requested, and in accordance with this section, it is not necessary that the landowner accept receipt of the notice. If a remonstrance is filed under section 11 of this chapter, the municipality shall file with the court proof that notices were sent to landowners under this section and proof of publication.**

**(e) The notice required under this section is in addition to any notice required under sections 2.1 and 2.2 of this chapter.**

SECTION 3. IC 36-4-3-2.2, AS AMENDED BY P.L.69-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), **or** 4(h) **or** ~~4.1~~ of this



chapter or an annexation described in section 5.1 of this chapter.

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. Except as provided in subsection (f), the notice must be sent by certified mail at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) For purposes of an annexation of territory described in section 2.5 of this chapter, if the hearing required under section 2.1 of this chapter is conducted after June 30, 2010, the notice required by this section must also be sent to each owner of real property, as shown on the county auditor's current tax list, whose real property is adjacent to contiguous areas of rights-of-way of the public highway that are only included in the annexation of territory by operation of IC 36-4-3-2.5 on the side of the public highway that is not part of the annexed territory.

(d) The notice required by this section must include the following:

- (1) A legal description of the real property proposed to be annexed.
- (2) The date, time, location, and subject of the hearing.
- (3) A map showing the current municipal boundaries and the proposed municipal boundaries.
- (4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.
- (5) A detailed summary of the fiscal plan, **if applicable**, described in section 13 of this chapter.
- (6) The location where the public may inspect and copy the fiscal plan, **if applicable**.
- (7) A statement that the municipality will provide a copy of the fiscal plan, **if applicable**, after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.
- (8) The name and telephone number of a representative of the municipality who may be contacted for further information.

(e) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

(f) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by certified mail not later than twenty (20) days before the date of the hearing to each owner of real property, as



shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed."

Page 2, line 24, after "(b)" insert **"This subsection applies only to an annexation ordinance adopted before July 1, 2015."**

Page 2, line 28, delete "After June 30,".

Page 2, delete lines 29 through 42, begin a new paragraph and insert:

**"(c) This subsection applies only to an annexation ordinance adopted after June 30, 2015. Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all parts of the annexed territory that are used for agricultural purposes and remains exempt from the property tax liability while the property's use remains agricultural."**

Page 3, delete line 1.

Page 3, line 2, strike "(c)" and insert **"(d)"**.

Page 3, line 5, strike "(d)" and insert **"(e)"**.

Page 3, between lines 9 and 10, begin a new paragraph and insert:  
**"SECTION 5. IC 36-4-3-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.2. (a) As used in this section, "economic development project" means any project that:**

**(1) a municipality determines will:**

**(A) promote significant opportunities for the gainful employment of its citizens;**

**(B) attract a major new business enterprise to the municipality; or**

**(C) retain or expand a significant business enterprise within the municipality; and**

**(2) involves expenditures by the annexing municipality for any of the following:**

**(A) Land acquisition, interests in land, site improvements, infrastructure improvements, buildings, or structures.**

**(B) Rehabilitation, renovation, and enlargement of buildings and structures.**

**(C) Machinery, equipment, furnishings, or facilities.**

**(D) Substance removal or remedial action.**

**(b) A municipality may annex noncontiguous territory that is entirely occupied by an economic development project, only if all of the following requirements are satisfied:**

**(1) The economic development project is developed by the annexing municipality.**



**(2) The economic development project:**

- (A) only involves commercial or industrial use of land; and**
- (B) does not involve any residential use of land.**

**(3) The economic development project has its entire area not more than one (1) mile from the annexing municipality's boundary.**

**(4) The economic development project is annexed under section 5.1 of this chapter.**

**(c) The annexation territory may not be considered a part of the municipality for purposes of annexing additional territory. The annexation ordinance and fiscal plan must include the basis for the municipality's determination that the project is an economic development project.**

**(d) If the economic development project that occupies territory that is annexed in accordance with this section is not completed within three (3) years after the date the annexation is effective, the annexation territory reverts to the county. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the county.**

SECTION 5. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

**(1) signed by at least:**

- (A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or**
- (B) the owners of ~~seventy-five~~ sixty percent (75%) (60%) of the total assessed value of the land for property tax purposes; and**

**(2) requesting an ordinance annexing the area described in the petition.**

**(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:**

**"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."**

**(c) ~~Except as provided in section 5.1 of this chapter,~~ If the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or**



superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
- (3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
- (4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

SECTION 6. IC 36-4-3-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) This section applies to an annexation in which owners of land located outside but contiguous to a municipality file a petition with the legislative body of the municipality:

- (1) requesting an ordinance annexing the area described in the petition; and
- (2) signed by one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(d) The municipality may:

- (1) adopt an annexation ordinance annexing the territory; and
- (2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;



after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality.

**(h) If a landowner withdraws the landowner's signature, the following occurs:**

**(1) Except as provided in subdivision (2),** the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

**(2) If the petition is for annexation of an economic development project under section 4.2 of this chapter, the annexation ordinance is voided.**

~~(h)~~ **(i)** If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

~~(i)~~ **(j)** A remonstrance under section 11 of this chapter may not be filed. However, an appeal under section 15.5 of this chapter may be filed.

~~(j)~~ **(k)** In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter."

Page 3, line 12, strike "5.1(i)" and insert "**5.1(j)**".

Page 3, line 13, reset in roman "and (e)".

Page 3, line 13, delete "through (f), with regard to an".

Page 3, delete line 14.



Page 3, line 15, delete "June 30, 2015,".

Page 3, line 15, delete "that does not receive any capital".

Page 3, line 16, delete "or noncapital services from the municipality".

Page 3, line 20, delete "sixty" and insert "**fifty-one**".

Page 3, line 20, delete "(60%)" and insert "**(51%)**".

Page 3, line 22, strike "seventy-five" and insert "**sixty**".

Page 3, line 22, strike "(75%)" and insert "**(60%)**".

Page 3, delete lines 41 through 42.

Page 4, delete lines 1 through 5.

Page 4, line 6, reset in roman "(d)".

Page 4, line 6, delete "(e)".

Page 4, line 10, reset in roman "(e)".

Page 4, line 10, delete "(f)".

Page 4, line 10, delete "the following requirements are" and insert ":",

Page 4, delete line 11.

Page 4, line 13, delete "." and insert ";".

Page 4, line 13, reset in roman "and".

Page 4, delete lines 16 through 19.

Page 4, line 32, delete "in filing the" and insert "**in the filing and litigation of the remonstrance petition, including appeal costs and reasonable attorney's fees in an amount not to exceed forty thousand dollars (\$40,000).**".

Page 4, delete lines 33 through 42.

Page 5, delete lines 1 through 12.

Page 5, between lines 20 and 21, begin a new line block indented and insert:

**"(3) The requirements of subsection (i)."**

Page 5, line 32, after "establishes" insert "**one (1) of**".

Page 5, line 33, after "annexed" insert ":

**(A)".**

Page 5, line 37, delete "." and insert "; **and**".

Page 5, line 38, beginning with "(2)" begin a new line double block indented.

Page 5, line 38, strike "(2) That the territory sought to be annexed".

Page 5, line 38, after "annexed" insert "**(B)**".

Page 5, between lines 40 and 41, begin a new line block indented and insert:

**"(2) That the territory sought to be annexed is occupied by an economic development project that meets the requirements of section 4.2 of this chapter."**





Page 7, line 32, delete "sixty" and insert "**fifty-one**".

Page 7, line 32, delete "(60%)" and insert "**(51%)**".

Page 7, line 34, strike "seventy-five" and insert "**sixty**".

Page 7, line 34, strike "(75%)" and insert "**(60%)**".

Page 8, reset in roman lines 13 through 41.

Page 8, line 42, reset in roman "(h)".

Page 8, line 42, delete "(g)".

Page 9, delete lines 8 through 40, begin a new paragraph and insert:

**"(i) Proof that the municipality has complied with the outreach program requirements and notice requirements of section 1.7 of this chapter."**

Page 9, line 41, delete "(i)" and insert "**(j)**".

Page 10, line 4, delete "A municipality that amends the fiscal plan".

Page 10, delete lines 5 through 9.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1561 as introduced.)

MAHAN

Committee Vote: yeas 10, nays 0.

